

### **Remarks**

The Applicant submits the present response in reply to the Office Action mailed 03/28/2007. With the accompanying amendments and remarks, the Applicant has endeavored to ensure that the specification and claims now presented are allowable in all respects. With this in mind, the Applicant respectfully requests that the Office review and allow the current specification and claims.

In brief summary, the present application was filed with 63 claims in total with claims 1 and 29 standing independently. Claims 24-28, 32, 35-45, and 54-58 have been withdrawn from consideration. Claims 1-3, 29-31, 33, 34, and 46-48 were previously canceled, and claims 64-68 have been added thereby leaving claims 4-23, 49-53, and 59-68 pending for consideration. Of the claims pending for consideration, claims 4, 7, 9, 11, 50, and 67 currently stand independently.

### **Claim Objections**

Claims 15 and 16 were objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claims 15 and 16 were said to recite an activating means comprising an activating switch while those elements were previously recited in lines 7-12 of base claim 9.

In response, the Applicant has amended claims 15 and 16 to ensure that each further limits the subject matter of a previous claim. More particularly, claim 15 has been amended to eliminate the earlier limitation adding “an activating means ...” and to specify that “the means for inducing an automatic accumulation of dental floss ... comprises a means for selectively enabling a rotation of the accumulating bobbin”. As such, claim 15 further limits the claims from which it depends.

Claim 16 has been amended to specify that “the activating means further comprises a means

for automatically rotating the accumulating bobbin”. Since such a means was not previously claimed, claim 16 also further limits the claims from which it depends.

It is respectfully submitted that, with these amendments, claims 15 and 16 comply with 37 C.F.R. § 1.75(c). Accordingly, their reconsideration and allowance in this regard are respectfully requested.

### **Claim Rejections Under 35 USC § 112**

Claims 4-6, 12-18, 22, and 64 were rejected under 35 USC § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. In particular, the Office found that “the means for retaining dental floss” in claim 4, line 6, lacked antecedent basis. Further, “the dispensing ring” and “the accumulating ring” in claim 12, lines 3-5, were also found to lack antecedent basis.

In response, the Applicant has amended claim 4 by changing “the means for retaining dental floss” to “the dispensing bobbin”, which has proper antecedent basis within claim 4. With respect to claim 12, the Applicant notes that, as amended herewith, “the dispensing ring” has been eliminated from claim 12 but is properly claimed in base claim 9. Also, claim 12 was amended to ensure that “the accumulating ring” has proper antecedent basis within that claim.

Based on these amendments, it is submitted that 4-6, 12-18, 22, and 64 comply with 35 USC § 112 in all respects. Therefore, the Applicant respectfully requests that the Office reconsider and allow the claims in this regard.

### **Claim Rejections Under 35 USC §§ 102, 103**

With respect to the patentability of the claims, the Office rejected claims 11 and 67 as being anticipated by U.S. Patent No. 5,199,452 to Cheng. Claims 4, 5, and 64 were rejected as being obvious under 35 U.S.C § 103 over the combined references of Cheng and U.S. Patent No. 5,415,188 to Altshuler. Still further, claim 6 was rejected as obvious in light of Cheng, Altshuler, and U.S. Patent No. 5,680,875 to Winters. Claims 7 and 8 were said to be obvious based on Cheng in combination with Winters. Even further, claims 9, 10, 23, 65, and 68 were rejected as unpatentable over Cheng when combined with U.S. Patent Publication No. 2004/0163665 of Alvarez. Claims 12-17 and 22 were rejected based on Cheng, Alvarez, and Winters, and claims 18 and 66 were rejected as obvious in light of Alvarez, Winters, and Altshuler. The Office did find, however, that claims 49-53 and 59-63 were allowable.

For an anticipation rejection to be proper, the cited prior art reference must identically disclose the claimed invention. As the Federal Circuit wrote recently, “[f]or a prior art reference to anticipate in terms of 35 U.S.C. § 102, *every* element of the claimed invention must be *identically* shown in a single reference.” *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990) (emphasis supplied); See also, *PPG Industries, Inc. v. Guardian Industries Corp.*, 75 F.3d 1558, 37 USPQ2d 1618 (Fed. Cir. 1996). It is also well settled that a proper obviousness analysis requires that one consider the entire claim as a whole in comparing the claimed invention to the disclosures of the prior art. In *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), the Supreme Court stated that one determining obviousness under Section 103 must determine the scope and content of the prior art, ascertain the differences between the prior art and the claimed invention, and evaluate

the level of ordinary skill in the pertinent art. With those aspects established, one may evaluate the obviousness of the invention while considering any secondary considerations that may be applicable.

In the present case, the Applicant submits that each independent claim as currently presented patentably defines over the prior art. It is further submitted that each dependent claim is allowable since it depends from an allowable base claim and since each adds further patentable limitation thereto.

Looking first to amended claim 4, the Applicant respectfully submits that the claim is not rendered obvious by Cheng even when combined with Altshuler. As amended, claim 4 requires, among other things, that the dispensing member comprise “an *annular dispensing ring* with an aperture for receiving a finger of a user” and that there be “an *annular dispensing bobbin* for retaining dental floss relative to the dispensing member wherein the dispensing bobbin is rotatably retained *for substantially concentric rotation* relative to the dispensing ring.” (Emphasis supplied.)

Neither Cheng, Altshuler, nor any obvious combination or modification thereof teaches or renders obvious an annular dispensing ring with a concentrically rotatable dispensing bobbin. Furthermore, it will be noted that Applicant’s claimed structure is also not found or suggested by Winters, which was cited by the Office in support of the rejection of Applicant’s previous claims setting forth dispensing and accumulating rings. Winters discloses only a T-shaped “finger grip member 64” with an open “grip area 63” to each side thereof. No reasonable interpretation of Winters could be said to teach or render obvious an “annular ring” as required by Applicant since, by definition, an annular ring comprises a circular structure. With no annular ring structure properly found in the prior art, it is even more clear that no cited reference can fairly be said to teach or suggest having a dispensing bobbin retained for substantially concentric rotation relative to

Applicant's claimed annular dispensing ring. For these and further reasons, it is respectfully submitted that no cited reference or combination thereof can properly support an anticipation or obviousness rejection of amended claim 4.

It is further submitted that independent claims 7, 9, and 67 are patentable since each includes similar limitations requiring an annular dispensing and/or accumulating ring with an annular, concentrically rotatable bobbin retained relative thereto. For example, amended claim 7 now demands a dispensing member with an annular dispensing ring and an annular, concentrically rotatable dispensing bobbin and an accumulating member with an accumulating bobbin retained for substantially concentric rotation relative thereto. Amended claim 9 requires an annular dispensing ring with a concentrically rotatable annular dispensing bobbin. Furthermore, amended claim 67 specifies a dental hygiene apparatus with annular dispensing and accumulating rings with annular bobbins retained for substantially concentric rotation. In light of these and further limitations of the amended base claims, it is respectfully submitted that claims 4, 7, 9, and 67 and each claim that depends from them is in condition for allowance.

Just as clearly, the dental hygiene apparatus of claim 11 is not taught or suggested by even the combined prior art. Nowhere in the cited references is there disclosed or rendered obvious a dental hygiene apparatus with, among other things, a dispensing member and a structurally separate accumulating member that are color coded to enable a user to differentiate between the dispensing member holding clean floss and the accumulating member holding contaminated floss. Indeed, it appears that no support whatsoever has been provided for the Office's rejection of claim 11. Accordingly, the Applicant respectfully submits that there is no proper basis for rejecting claim 11.

### **Conclusion**

It is respectfully submitted that no cited reference identically discloses the claimed invention whereby an anticipation rejection is not properly established. Furthermore, even the combined prior art fails to render any of Applicant's independent claims obvious. With this in mind, the Office's reconsideration and allowance of the specification and claims are respectfully requested.

The Applicant believes that all issues raised in the Detailed Action have been responded to fully. However, if, after consideration of the above amendments and comments, there remain any open issues in this application that possibly can be resolved by a telephone interview, then the Applicant's undersigned attorney most respectfully requests that he be called to discuss and attempt to resolve those issues.

October 19, 2007

Respectfully Submitted,

/Thomas P. O'Connell Reg. No. 37,997/  
Thomas P. O'CONNELL, Esq.  
*Attorney for Applicant*  
Customer No. 20738  
(781) 643-1845

#### **Certificate of Transmission**

I hereby certify that this correspondence is being to the United States Patent and Trademark Office by use of the EFS-Web on this the 19<sup>th</sup> of October, 2007.

O'Connell Law Office  
Application No. 10/810,245

**PATENT**  
File Reference: BOMDENUS

/Thomas P. O'Connell Reg. No. 37,997/  
Thomas P. O'Connell, Esq.

October 19, 2007  
Date